

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5526 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No

GUJARAT MAZDOOR PANCHAYAT

Versus

UNION OF INDIA

Appearance:

MR NR SHAHANI for Petitioner

MR BHARAT T RAO for Respondent No. 1

NO ONE APPEARS FOR RESPONDENT NO.2 DESPITE SERVICE.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 05/09/97

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 20.5.1997 passed by the Government of India, Ministry of Labour whereby the request for making reference of the dispute raised by the petitioner Gujarat Mazdoor Panchayat for absorption of 30 workmen in the National Airport Authority, Ahmedabad against the management of Airport Authority of Ahmedabad has been rejected. Rule was issued on 30.7.1997 and

Mr.B.T.Rao appeared on behalf of the Union of India in response to the service of the Rule on 6.8.1997 and sought time to seek instructions. Mr.Rao submits that he has not received any instructions so far.In the facts and circumstances of the case, the matter is taken up for final hearing today.

I have gone through the order dated 20.5.1997. The contents of the impugned order show that the Ministry of Labour, Government of India has gone into the merits of the case and the request for making reference has been rejected by saying that the concerned workmen had not been appointed by the management of the Airport Authority and that the management of Airport Authority of India had given contract for electric maintenance to the contractors after inviting tenders and the workmen were engaged by the contractors in the maintenance job whenever required. It has also been recorded that the management is having permanent force of electricians and wiremen who are doing job of permanent nature and none of the contractors' workmen were engaged by the contractors to do his job. It is, therefore, clear that the appropriate Government while rejecting the request to make the reference has gone into the merits and while considering the reference it is not open for the appropriate Government to go into the merits of the dispute. The consideration of merits fall in the domain of the Industrial Tribunal therefore, the impugned order dated 20.5.1997 cannot be sustained in the eye of law and the matter deserves to be sent back. The learned counsel for the petitioner has placed reliance on AIR 1989 SC Pg.1565 i.e. Telco-Convoy Drivers' case. The impugned order dated 12.5.1997 therefore cannot be sustained in the eye of law and the same is hereby quashed and set aside and the matter is remanded back to the concerned Authority of the appropriate Government for reconsideration and passing appropriate order in accordance with law on the question of making reference at the earliest possible opportunity but in no case later than six weeks from the date of the service of the order. Rule is made absolute in the terms as aforesaid. No order as to costs.

m.m.bhatt